

06-PCB0A-002-A

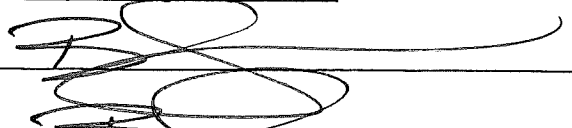
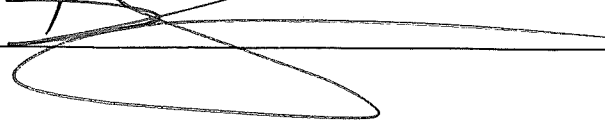
APPLICATION FORM

DEC 19 2005

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations
SECTION A (To be completed by applicant)

- 1. (Check One)
 Boone Florence Walton Union
- 2. (Check One)
 Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
- 3. Applicant's Name BRIAN MORGAN
Phone Number 859-689-7309 Fax No. N/A
Applicant's Address 2538 Bull. tsburg Ch Rd
Petersburg KY 41080
City State Zip
- 4. Description of Request: APPROX. 700sq' ADDITION TO
RESIDENTIAL DWELLING
- 5. Name of Development N/A
- 6. Location of Development 2538 Bull. tsburg Ch Rd.
Petersburg, KY 41080
- 7. Acreage Under Review 1.5 AC.
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
N/A
- 9. Owner of Property BRIAN MORGAN
Phone Number of Owner 859-689-7309
- 10. Address of Property Owner 2538 Bull. tsburg Ch Rd
Petersburg KY 41080
City State Zip
- 11. Proposed Use(s) on Site Single Family Residence
- 12. Total Square Footage of Existing and/or Proposed Buildings 850 sq ft
- 13. Current Zoning on Property C3
- 14. Deed Book 898 Page No. 198 Group No. 2003
- 15. Is the site subject to a zone change? NO
If yes, give date of approval _____
- 16. Have you submitted a Site Plan with this request? YES
- 17. Have you submitted a list of adjoining property owners with this request? YES
- 18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: 
Property Owner's Signature: 

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2

SECTION B (To be completed by the Boone County Planning Commission Staff)

1. Date Received 12-19-05 Fee Received \$653.00 RA 44554
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 1-11-06 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: SEE 1-11-06 B.C.B.O.A.
MEETING MINUTES
7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail
www.boonecountyky.org - Web Page

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

STAFF REPORT

APPLICANT: Brian Morgan

LOCATION: 2538 Bullitsburg Church Road, Boone County, Kentucky

ZONING: Commercial Services (C-3)

DATE: January 11, 2006

PROPOSAL

The applicant is requesting a Change in Non-Conforming Use so he can construct an approximate 700 square foot addition onto his 821 square foot single-family residence. The subject property is located at 2538 Bullitsburg Church Road and is zoned Commercial Services (C-3).

The submitted Concept Development Plan (see attachments) shows that building addition will be constructed onto the northern facade of the single-family residence. The applicant informed Staff that the building addition will contain a bedroom and a bathroom.

APPLICABLE REGULATIONS

Article 2, Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment and Zoning Appeals is to act on applications for changes in non-conforming use.

Article 2, Section 270 of the Boone County Zoning Regulations states that it is the intent of the regulations to keep non-conforming lots, uses or structures from being "enlarged or extended beyond the scope and area of its operation at the time it became a legal non-conforming use, nor shall other uses or structures which are prohibited elsewhere in the same district be permitted on lots of non-conforming uses or structures."

Article 2, Section 272 of the Boone County Zoning Regulations states "where, at the time of the adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided the Board shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time these regulations were adopted."

KRS 100.253 allows the following:

1. The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it, may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.
2. The board of adjustment shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time the regulation

which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status, for enlargements of extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

3. Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

Article 2, Section 276 of the Boone County Zoning Regulations states that repairs and maintenance may be made on any non-conforming structure or portion of a structure containing a nonconforming use. Such work may include ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sections 1031 and 1033 of the Boone County Zoning Regulations do not list detached single-family residences as principally permitted uses or conditional uses in the Commercial Services (C-3) zone.

SITE CHARACTERISTICS

The site fronts on Garrison Creek Road and is approximately 1.5 acres in area. The parcel contains an approximate 821 square foot single-family residence and a garage. A large number of deciduous trees are located along the southern and western property lines. The topography where the building addition is proposed is relatively flat.

SITE HISTORY

The property has been zoned Commercial Services (C-3) since 1980.

SURROUNDING LAND USES & ZONING

- North: 431 Acre Farm with Cell Tower (A-1, A-2, & C-3)
- South: Bullitsburg Baptist Church (I-1)
- East: 431 Acre Farm with Cell Tower (A-1, A-2, C-3) & Single-Family Dwelling (C-3 & A-1)
- West: Garrison Creek Road & 151 Acre Farm (A-2 & C-3)

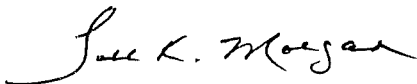
STAFF COMMENTS

1. The single-family dwelling is a non-conforming use because the property is zoned Commercial Services (C-3). Single-family residences are not principally permitted uses or conditional uses in this zoning district.
2. Staff consulted legal counsel in regard to this request. It is Staff's understanding that the proposal for a change in non-conforming use can be viewed in the following fashions:
 - a. The proposed addition will enlarge the existing non-conforming use in terms of gross square footage, or
 - b. The proposed addition will not enlarge the scope of the non-conformity. The overall structure will still serve as a single-family residential dwelling.
3. Staff would like the applicant to address whether the exterior construction materials of the addition will be consistent with the existing structure.

Conclusion

KRS 100.253 and Section 220 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a Change-in-Non-Conforming Use.

Respectfully submitted,

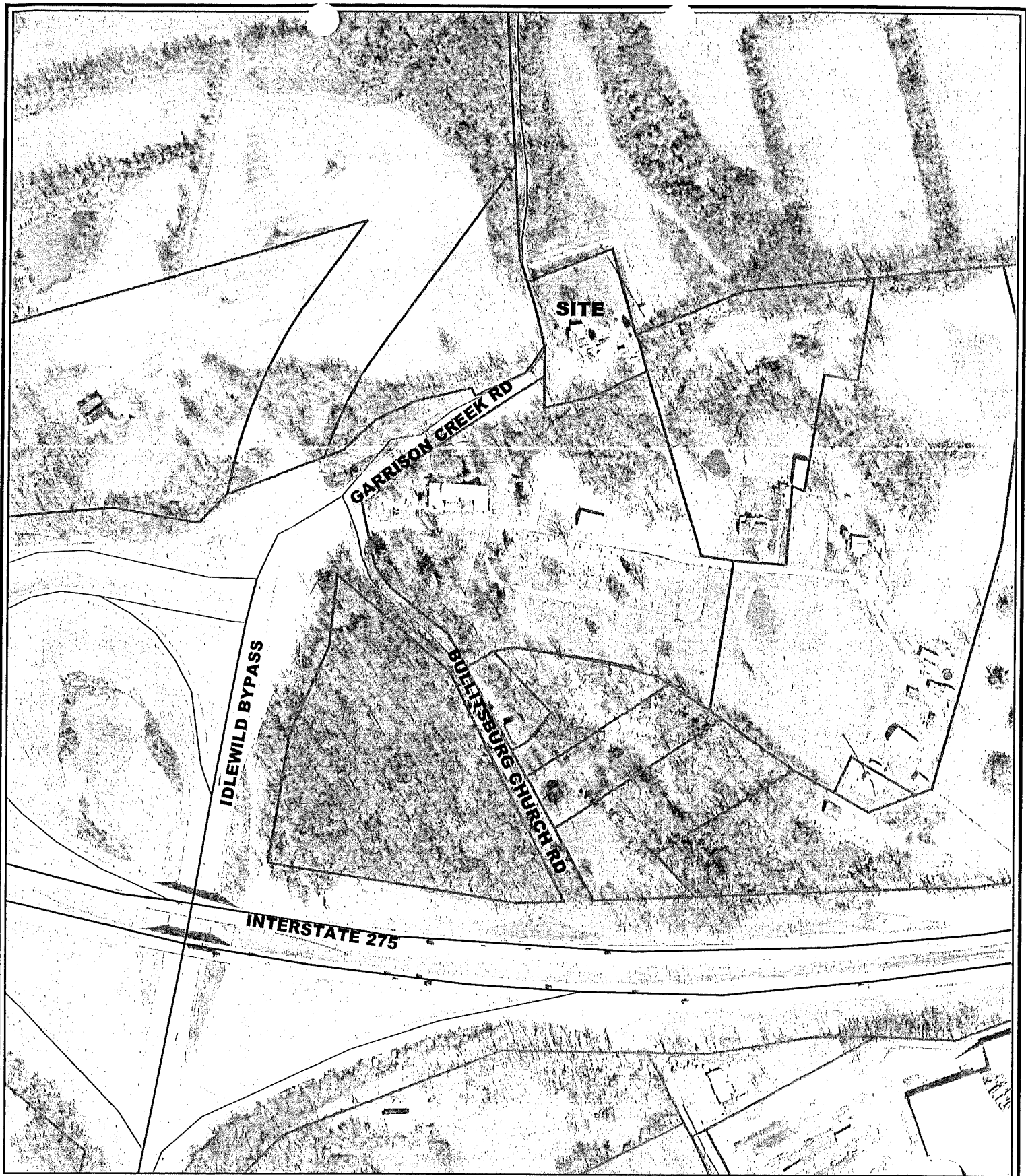


Todd K. Morgan, AICP
Planner, Zoning Services

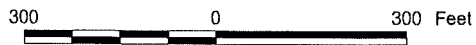
TKM/pr

Attachments

- Exhibit A – Aerial Map
- Exhibit B – Concept Plan
- Exhibit C – Zoning Map
- Exhibit D – Application



Aerial Map



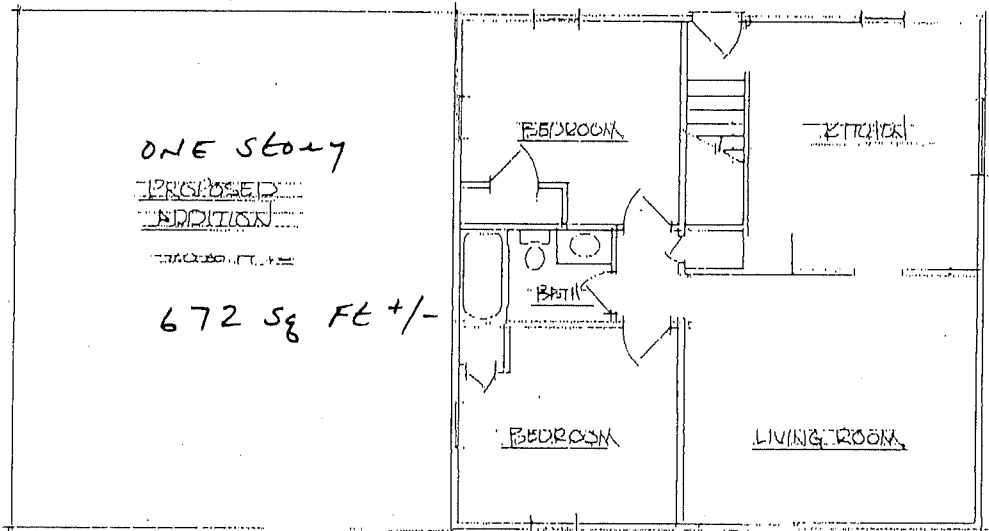
1 inch equals 300 feet
Produced by the
Boone County Planning Commission
GIS Services Division
December 28, 2005



STUDER RESIDENTIAL DESIGN

DEC 12 2005

REAR FACADE



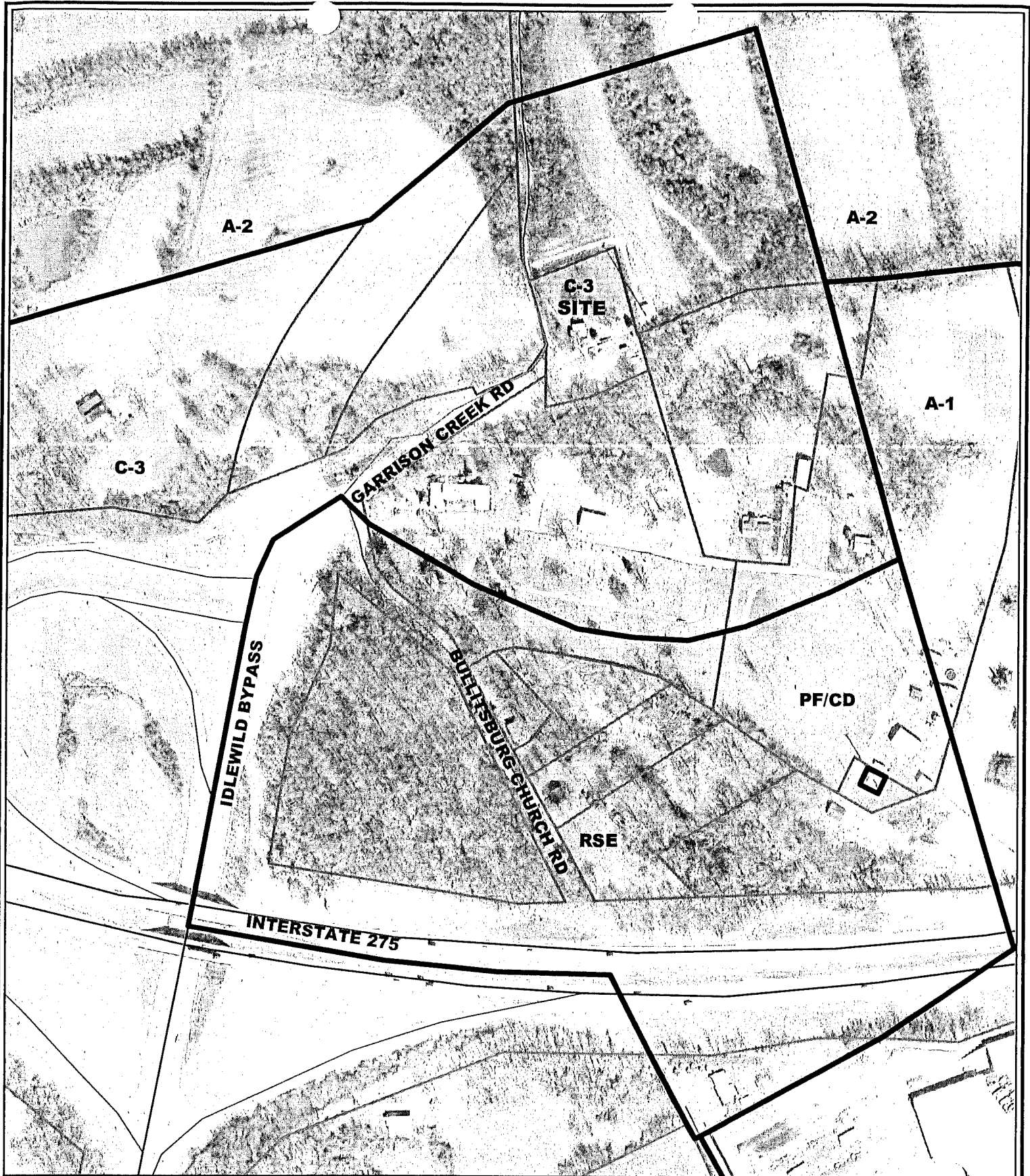
FRONT FACADE 29'4"

28'

EXISTING FIRST FLOOR PLAN
SCALE: 1/4"=1'-0"

AS BUILT DRAWINGS FOR BRIAN & TRICIA MORGAN

STUDER RESIDENTIAL DESIGN, INC.



Zoning Map

300 0 300 Feet

1 inch equals 300 feet
Produced by the
Boone County Planning Commission
GIS Services Division
December 28, 2005



APPLICATION FORM

DEC 19 2005

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AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations
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(Check One)

1. Boone Florence Walton Union

(Check One)

2. Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use

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City State Zip

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Applicant's Signature: _____

Property Owner's Signature: _____

COPY

CLUR #06-BCBOA-002-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Brian Morgan
2538 Bullitsburg Church Road
Petersburg, KY 41080

2. ADDRESS OF PROPERTY
2538 Bullitsburg Church Road
Petersburg, KY 41080

3. NAME OF SUBDIVISION OR
DEVELOPMENT (if applicable)

4. DEED BOOK 898 PAGE NO. 198 GROUP NO. 2003

5. TYPE OF RESTRICTION(S) (Check all that apply)

___ Zoning Map Amendment:
From ___ To

___ Conditional Use Permit

___ Development Plan

___ Conditional Zoning

___ Subdivision Plat
(Not Recorded)

X Other: Change in Non-Conforming Use

___ Variance

6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT,
LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL
RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005

Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

Todd K. Morgan, Planner, Zoning Services
Name and Title of Completing Official

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Change in Non-Conforming Use approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of January 11, 2006 Certificate of Land Use Restriction (#06-BCBOA-002-A), for Brian Morgan, Property Owner(s).

The following conditions will apply:

- 1) The construction materials of the addition are to be consistent with the existing structure.

The approved Change in Non-Conforming Use as well as the preceding conditions apply to the property described in:

DEED BOOK 898

PAGE NO. 198

GROUP NO. 2003

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the

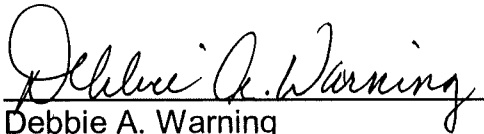
Boone County Planning Commission this 23 day of January, 2006.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2007

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)